

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PUGET SOUND SURGICAL
CENTER, P.S.,

CASE NO. C17-1190JLR

ORDER REGARDING
PLAINTIFF'S MOTION FOR AN
EXTENSION TO FILE A
RESPONSE TO DEFENDANT'S
MOTION TO DISMISS

AETNA LIFE INSURANCE
COMPANY, et al.,

Defendants.

I. INTRODUCTION

Before the court is Plaintiff Puget Sound Surgical Center, P.S.’s motion for an extension of time to respond to Defendant Anchorage School District Active Employee Open Choice PPO Medical Plan’s (“ASD Plan”) motion to dismiss. (MFE (Dkt. # 30); *see also* MTD (Dkt. # 27).) The court has considered Plaintiff’s motion, the parties’ submissions in support of and opposition to the motion (*see* Resp. (Dkt. # 32); Reply (Dkt. # 39)), the other relevant portions of the record, and the applicable law. Being fully

1 advised, the court GRANTS in part and DENIES in part the motion as explained more
2 fully herein.

3 **II. ANALYSIS**

4 Plaintiff seeks an open-ended extension of time to respond to ASD Plan's motion
5 to dismiss until some agreed date after all Defendants who intend to file motions to
6 dismiss have so filed or until "30 days after all [D]efendants have served an answer or
7 filed a responsive pleading." (MFE at 2.) Plaintiff argues that granting its request would
8 mirror the court's order granting Defendants Bank of America Health Care Plan,
9 Nordstrom, Inc. Class Plan, Starbucks Health Care Plan, and Costco Wholesale Health
10 Plan's motion for an extension of time to respond to Plaintiff's complaint until 21 days
11 after the last defendant is served. (*See* Order (Dkt. # 25).) Plaintiff's motion also appears
12 to contemplate that it will file one unified response to all potential motions to dismiss
13 from all Defendants who decide to file such a motion. (*See* MFE at 2.) ASD Plan
14 opposes Plaintiff's motion. (*See* Resp.)

15 The court declines to grant the open-ended extension Plaintiff requests for two
16 reasons. First, ASD Plan was not one of the defendants who requested an extension of
17 time to respond to Plaintiff's complaint; and in that situation, Plaintiff agreed to the
18 requested extension, whereas here, ASD Plan has not so agreed. (*See generally* Resp.)
19 Second, ASD Plan moves to dismiss Plaintiff's complaint in part on grounds of lack of
20 personal jurisdiction. (*See* MTD at 9-15.) An argument based on lack of personal
21 jurisdiction is one that lends itself to the kind of unified response contemplated by
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1 Plaintiff's motion. Accordingly, the court denies the open-ended extension requested by
2 Plaintiff.

3 Nevertheless, because some time has passed due to the parties' dispute over the
4 timing of Plaintiff's response, the court will grant Plaintiff a short, defined extension of
5 time to respond to ASD Plan's motion to dismiss. ASD Plan's motion is presently noted
6 for Friday, December 1, 2017. (See MTD at 1.) Under Local Rule LCR 7(d)(3),
7 Plaintiff's response would be due on Monday, November 27, 2017. See Local Rules
8 W.D. Wash. LCR 7(d)(3) ("Any opposition papers shall be filed and served not later than
9 the Monday before the noting date."). The court will extend the noting date for ASD
10 Plan's motion to dismiss from Friday, December 1, 2017, to Friday, December 8, 2017.
11 Extending the noting date for the motion also extends Plaintiff's deadline to file a
12 response to Monday, December 4, 2017. See *id.* In addition, ASD Plan's reply
13 memorandum is now due on Friday, December 8, 2017. See *id.* ("Any reply papers shall
14 be filed and served no later than the noting date.").

15 Finally, the court notes that counsel's tenor in discussing Plaintiff's motion for an
16 extension of time does not comport with the court's standard for the conduct of attorneys
17 who appear before it. (See Resp., *see also* Reply.) The motion before the court involved
18 a simple request for an extension of time. The rhetoric employed by both sides was
19 excessive, particularly given the issue before the court. As noted in the introduction to
20 the court's Local Rules, "[t]he judges of this district expect a high degree of
21 professionalism from the lawyers practicing before them." Local Rules W.D. Wash.,
22 Introduction. Counsel on both sides have failed to meet that standard in their briefing on

1 the present motion. The court anticipates that it will not need to admonish counsel again
2 concerning this issue during the course of this litigation.

3 **III. CONCLUSION**

4 In sum, the court GRANTS in part and DENIES in part Plaintiff's motion for an
5 extension of time to respond to ASD Plan's motion to dismiss (Dkt. # 30). The court
6 DENIES the open-ended extension Plaintiff requests, but GRANTS a one-week
7 extension from November 27, 2017, to December 4, 2017. The court also DIRECTS the
8 Clerk to change the noting date for ASD Plan's motion to dismiss (Dkt. # 27) from
9 December 1, 2017, to December 8, 2017.

10 Dated this 14th day of November, 2017.

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14 JAMES L. ROBART
15 United States District Judge
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